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The rule of law at the national and international levels

Strengthening and coordinating United Nations rule of law activities

Report of the Secretary-General

Summary

In the present report, submitted pursuant to General Assembly resolution 71/148, updates and analysis are presented on the assistance provided by the United Nations in relation to the rule of law at the national and international levels during the last 12 months and proposals to strengthen the Organization's work in support of Member States are examined.

Member States and the international community at large have recognized that the rule of law is critical in efforts to build and sustain peace and an enabling factor in the prevention of conflict, the realization of the 2030 Agenda for Sustainable Development and the overall protection and promotion of human rights.

The United Nations is committed to delivering more targeted support to Member States and to enhancing the impact of rule of law efforts on people's lives. The engagement of Member States is key in helping to shape the solutions to the challenges faced by the Organization in providing rule of law assistance.

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Contents

		Page
I.	Introduction	3
II.	United Nations support and activities to strengthen the rule of law	3
	A. United Nations support at the national level	3
	B. Strengthening accountability for international crimes at the national level	7
III.	Promotion of the rule of law at the international level	8
	A. Codification, development and promotion of an international legal framework	8
	B. International and hybrid courts and tribunals	10
	C. Other international accountability mechanisms	13
	D. Legal and judicial responses to issues of serious global concern	13
	E. Strengthening the administration of justice within the Organization	15
IV.	Making United Nations rule of law assistance more effective and coherent	15
V.	Moving forward: effectiveness, coherence and sustainability	17
Annex		
	Ways and means to further disseminate international law to strengthen the rule of law	19

I. Introduction

1. The twenty-first century has seen extraordinary technological progress, the growth of the global economy and improvements in basic social indicators. Concurrently, global problems such as climate change, mass human displacement, migration, terrorism and increasingly complex conflicts require sophisticated responses, which must be grounded in an international order based on the rule of law.

2. In the Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels of 2012, Member States reaffirmed the fundamental importance of the rule of law for the further development of the three main pillars of upon which the United Nations is built, namely, international peace and security, human rights and development. Among States, the rule of law provides a basis for political dialogue and cooperation, the peaceful settlement of international disputes, ensuring accountability for international crimes and enabling solutions to global problems.

3. Member States have increasingly called upon the United Nations to support efforts to strengthen the rule of law at both the national and international levels. The work done in that regard, with an emphasis on notable developments, challenges and best practices in United Nations rule of law assistance, is set out in the present report, submitted pursuant to General Assembly resolution 71/148.

4. The annex to the present report contains information on the subtopic "Ways and means to further disseminate international law to strengthen the rule of law", to be discussed by the Sixth Committee during the seventy-second session of the General Assembly (see annex). A separate report has been submitted providing a review of the regulations giving effect to Article 102 of the Charter of the United Nations (A/72/86).

II. United Nations support and activities to strengthen the rule of law

5. At the national level, there is no single model for the development of the rule of law. United Nations entities have supported efforts to strengthen the rule of law in a number of countries, at different stages in their development, and will continue to provide support when requested by national authorities. United Nations support is guided by relevant international legal and human rights frameworks, draws on comparative experience and best practices and is aligned with the national priorities of Member States.

A. United Nations support at the national level

6. The rule of law is an outcome that requires continued effort to keep up with the constant evolution of societies and no country is excluded from this effort. All countries, regardless of the stage that they have reached in their development, face challenges in addressing risks and structural weaknesses that could destabilize their political and economic gains, diminish the protection of human rights and undermine the relationship between State authorities and the people they serve. In the context of protracted conflicts, the rule of law allows for the identification of durable political solutions and enables States to rebuild relationships with their populations.

7. In the light of such dynamics, during the reporting period, the United Nations provided assistance in respect of rule of law efforts at the national level under the six main areas of work outlined below. Emerging issues on which the United Nations needs to improve its response and support are highlighted.

Capable and accountable justice and security institutions

8. The United Nations has supported justice and security sector reforms in every region of the world, in such countries as the Central African Republic, El Salvador, Kyrgyzstan, Lebanon and Liberia, with a view to ensuring the delivery of services and reinforcing trust between people and State institutions.

9. In Somalia, the constitution review process provided an opportunity to reformulate the justice and corrections architecture at the federal and state levels. Technical assistance was provided to help to build consensus on the most appropriate model to improve the functionality and independence of the justice system. The Palestinian Authority initiated a legal harmonization process to align its legislation, including laws on gender discrimination, with international treaty commitments. In Iraq, authorities developed security sector reform strategies and, in Haiti, the Inspector General of the Police increased the oversight of the police services. In Darfur, the Sudan, the authorities reopened a prison facility, thereby re-establishing a missing link in the chain of the criminal justice system. The United Nations conducted the global study on legal aid in order to ascertain the current state of legal aid around the world with a view to assisting States and other service providers.

10. In Mali, the United Nations supported national efforts to restore essential justice services to combat terrorism and organized crime. In Guinea-Bissau, the comprehensive approach of the United Nations to expanding the rule of law throughout the country included capacity-building through mobile criminal justice teams, the establishment of model police stations to advance community policing and support for corrections institutions. In the Central African Republic, over 3,447 police officers were registered and deployed, more than a dozen courts were re-established and the demilitarization of the prison service is ongoing. In Somalia, authorities established the first case record management system in one of the administrative regions and, in the State of Palestine, the automation of criminal justice services and the establishment of a forensic science laboratory have helped to reduce due process delays. In Afghanistan, authorities established a dedicated Anti-Corruption Justice Centre in 2016, leading to 41 convictions on bribery or embezzlement charges.

Community-oriented security and armed violence reduction

11. In countries and regions where armed violence and widespread human rights violations are perpetrated by both State and non-State actors, populations continue to live with insecurity and impunity, without the protection of responsive police services or other law enforcement, justice and corrections systems.

12. The United Nations has helped to reduce illicit flows of small arms and light weapons. The Organization developed and disseminated the International Small Arms Control Standards, which have provided guidance to more than 100 States. At the regional level, cooperation between the United Nations and the European Union has helped to advance disarmament and arms control in South-Eastern and Eastern Europe.

13. The United Nations has also supported the establishment of community-oriented policing programmes in Iraq, Pakistan and Sierra Leone. In Jordan and Lebanon, where the influx of Syrian refugees has created tensions with host

communities, authorities bolstered police and other law enforcement capacities to deliver services to people in need and to prevent escalations in violence.

14. United Nations assistance has enabled El Salvador and Mali to make tangible progress in reducing criminal violence, while the Government of Colombia has successfully rolled out citizen security and coexistence plans in the areas most affected by violence. In the Central African Republic, the disarmament, demobilization and reintegration programme and the community violence reduction programme contributed to overall stabilization and creating the conditions necessary for inclusive elections. In Haiti, the community violence reduction programme has provided vocational and employment opportunities for young people.

Access to justice for marginalized groups

15. There are sectors of populations that are often disempowered and deprived of their rights, voice and representation. United Nations support includes the use of mobile and specialized courts in resolving disputes, particularly in remote areas, and the strengthening of legislative and policy frameworks for minorities, indigenous peoples, poor communities and displaced persons.

16. With United Nations assistance, more than 10,000 people in the Democratic Republic of the Congo received legal information in legal clinics in the eastern regions of the country, cases involving 1,263 victims of sexual and gender-based violence were referred to the courts and 783 judicial decisions were pronounced in such cases in 2016. In the Central African Republic, 23 mobile court sessions provided access to justice services in remote areas. United Nations assistance also enabled Albania, Algeria, Namibia, Thailand, Tunisia and Viet Nam to adopt enhanced procedures and regulations on children's rights and improved access to justice for children. Government entities and civil society provided improved access to justice for vulnerable and marginalized groups through tailored legal assistance programmes in Bosnia and Herzegovina, Haiti, Kyrgyzstan, Pakistan, Somalia and Timor-Leste.

17. In countries with plural legal systems, where both men and women rely on customary mechanisms for redress, the United Nations has provided assistance to tighten functional linkages between the national legal system and customary systems and to ensure that human rights are respected and that high-quality services are provided. In Darfur, the United Nations supported customary rural courts in the mediation of land disputes and other intercommunal drivers of conflict, including a long-standing inter-tribal dispute that resulted in a ceasefire agreement. In Sierra Leone and Uganda, the United Nations partnered with local councils to increase respect for women's rights during the hearing of cases. The United Nations worked closely with Guatemala and the Plurinational State of Bolivia to achieve significant progress in promoting gender equality within indigenous justice systems.

Security and justice for women and girls

18. Structural inequalities, poverty and discrimination hinder the access of women and girls to justice and security. A gender-responsive legal system, livelihood opportunities, access to education for girls and measures to reduce sexual and gender-based violence are some of the building blocks of a resilient society.

19. Security Council resolution 1325 (2000) and subsequent resolutions on women and peace and security, the Convention on the Elimination of All Forms of Discrimination against Women, general recommendations Nos. 30 (2013) on women in conflict prevention, conflict and post-conflict situations and 33 (2015) on women's access to justice of the Committee on the Elimination of All Forms of Discrimination against Women and the 2030 Agenda for Sustainable Development

are relevant frameworks for the promotion of gender equality through rule of law efforts. The Seven-Point Action Plan on Gender-Responsive Peacebuilding, introduced by the previous Secretary-General, includes a goal on ensuring that at least 15 per cent of the post-conflict programme funds managed by the United Nations are allocated to meeting women's needs and building their capacities. That goal must be met consistently.

20. National authorities and civil society are working with the United Nations to prevent and address sexual and gender-based violence and conflict-related sexual violence in Afghanistan, Côte d'Ivoire, the Democratic Republic of the Congo, Guatemala, Iraq, Liberia, Mali, Sierra Leone, the Sudan and other countries. Such efforts include legal reforms, legal assistance programmes, community security programmes, the development of specialized services for victims and survivors of violence, awareness-raising campaigns and rehabilitation programmes. In Darfur, support was provided for the opening of a child-friendly family visiting bay in a women's prison and, in Kyrgyzstan, the participation of women in local public safety meetings led to the prioritizing of the issue of sexual and gender-based violence in crime prevention plans.

21. In Afghanistan, female police officer councils were established to reduce discrimination and domestic violence. In Côte d'Ivoire, support for demobilized former combatants included vocational training for 752 women, thus enabling their reintegration into local communities. In Colombia, consultations with 320 women from conflict-affected regions were taken into account when designing the national truth commission.

Economic and environmental protections

22. Corruption poses a significant threat to the rule of law, erodes public trust and exacerbates inequality. Accountable and inclusive rule of law institutions are essential for generating the stability and predictability required to enable the proper conduct of business and investment with a view to creating economic opportunities. In a global economy with cross-border financial flows, laws and enforcement capacities are necessary to guarantee protection and prevent illicit financial flows. During the reporting period, United Nations entities supported the development of legal frameworks, law enforcement institutions and anti-corruption commissions in all regions.

23. Strong rule of law frameworks and institutions can serve to enhance cooperation among Member States on issues of mutual concern regarding environmental protections. United Nations entities have provided considerable support to strengthen legal frameworks in countries such as Antigua and Barbuda, Chile, Costa Rica, the Lao People's Democratic Republic, Paraguay and Peru on a diverse range of issues, including greenhouse gas emissions, the prohibition of lead paint, private sector mitigation measures and the elimination of plastic bags.

24. Lastly, it should be emphasized that safe and regular migration can benefit both migrants and society. Ensuring that legal frameworks are in place to promote economic and social inclusion, to guarantee access to justice for all migrants, to facilitate the sending of remittances and the portability of earned benefits will result in broader development opportunities for both host States and migrants.

Culture of lawfulness

25. The outcome document of the thirteenth United Nations Congress on Crime Prevention and Criminal Justice, held in Doha in April 2015, referred to the importance of promoting a culture of lawfulness that supports the rule of law and human rights while respecting cultural identities. Rule of law efforts could have a

greater impact and attract more political support if they were informed by local sociopolitical culture and values.

26. Linkages between political environments, institutional deficits and the justice and security needs of communities must inform programming in Member States. Public trust in institutions is key. In Guinea, support was provided to the Office of the President for the convening of inclusive strategic orientation commissions to take decisions on security sector reform strategies and develop action plans for implementation. Owing to their transparency, transitional justice mechanisms, such as the one in Tunisia, have also helped to strengthen popular support for the rule of law. Projects with a focus on education and judicial integrity, such as those in Nepal and Timor-Leste, can also strengthen trust in institutions.

27. More can be done to support Member States in maximizing sociopolitical capital for advancing the rule of law and promoting a culture of lawfulness. The Organization's work in this area must be strengthened, in particular on the role of education and working with local actors to improve understanding of the positive contribution of local values and practices.

B. Strengthening accountability for international crimes at the national level

28. Member States have primary responsibility for pursuing accountability for international crimes in domestic justice systems. Pursuant to the complementarity principle, the International Criminal Court may investigate and prosecute in instances in which a State is unwilling or unable to effectively address a crime within its jurisdiction. Domestic investigations and prosecutions should be undertaken on the basis of national laws and procedures that are consistent with international norms and standards and justice must be seen, by victims and society, to be done impartially to ensure the legitimacy of national efforts.

29. Member States have made progressive and innovative contributions to strengthening accountability for international crimes at the national level, often when emerging from periods of conflict and violence. In the Central African Republic, magistrates and prosecutors, including an international special prosecutor, have been appointed to the Special Criminal Court, which was established in 2015 to prosecute serious crimes committed since 2003. Once it is fully operational, the Special Criminal Court will function in parallel to the national courts, which are currently hearing the cases of 45 individuals whose arrests were facilitated by the United Nations. In Colombia, the peace agreement of 2016 provides for the establishment of a special jurisdiction for peace, which includes a special domestic court for prosecuting war crimes. An example of a different model is the International Commission against Impunity in Guatemala, a prosecution office led by an international prosecutor and established pursuant to an agreement between the United Nations and the Government to investigate complex crimes under national law. The International Commission has successfully investigated senior government officials, including a former Head of State and a Vice-President.

30. United Nations entities continue to assist Governments in establishing frameworks for prosecuting international crimes in domestic courts. One example is the support being provided to Iraq to develop a law for this purpose. In the Democratic Republic of the Congo, the work of the prosecution support cells has resulted in 215 convictions of serious crimes during the reporting period. With a view to developing national capacity to investigate and prosecute conflict-related sexual violence, the United Nations deployed experts to Guatemala and Tunisia, as well as to the African Union.

31. Over the years, the United Nations has refined its approach and provided support for a broad range of transitional justice processes. A recent example is the Truth and Dignity Commission of Tunisia, which held its first public hearing in Tunis in 2016 and is mandated to refer cases to the national courts. The Government will also establish specialized chambers to prosecute serious crimes of the former regime. The United Nations has supported the implementation of national reparations projects, facilitated the networking of victims' organizations in Guatemala and Nepal and supported the participation of such organizations in the peace negotiations in Colombia. In Sri Lanka, the United Nations facilitated victim participation in multi-stakeholder consultations on transitional justice mechanisms.

III. Promotion of the rule of law at the international level

32. The United Nations continues to facilitate the development and promotion of an international framework of legally binding norms and standards and mechanisms to: resolve disputes and maintain peaceful relations between States; advance accountability for international crimes; encourage humane and fair criminal justice systems; safeguard against environmental degradation; and prevent human rights violations.

A. Codification, development and promotion of an international legal framework

33. The United Nations continues to advocate greater participation in multilateral treaties. At the annual treaty event in 2016, 79 treaty-related actions were completed by 56 States. United Nations entities continue to provide guidance and programmatic support to implement treaty provisions.

34. In an effort to accelerate the entry into force of the Paris Agreement, the Secretary-General hosted a high-level event in September 2016, at which 31 States deposited their instruments of ratification or acceptance. The Agreement represents a milestone achievement in strengthening the global response to climate change. As of 30 June 2017, 152 States and the European Union had joined the Agreement.

35. With regard to treaties on the environment, during the reporting period, 22 States became parties to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization to the Convention on Biological Diversity. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal was acceded to by two additional States, bringing the number of parties to 186. An additional State acceded to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. The Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer was adopted on 15 October 2016, with the depositing of three instruments of ratification and one instrument of acceptance. In March 2017, the Global Judicial Institute for the Environment endorsed the World Declaration on the Environmental Rule of Law, which sets out 13 principles for promoting and achieving environmental justice.

36. Three additional States became parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, bringing the total number of States parties to 86, and one State became a party to the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea

of 10 December 1982, bringing the total to 150. The preparatory committee established pursuant to General Assembly resolution 69/292 continued its work towards the development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

37. The International Covenant on Civil and Political Rights was ratified by one additional State, one State became a party to the Covenant's First Optional Protocol and three States became parties to its Second Optional Protocol, aiming at the abolition of the death penalty. One State became a party to the International Covenant on Economic, Social and Cultural Rights, while one State acceded to its Optional Protocol. One State ratified the International Convention on the Elimination of All Forms of Racial Discrimination, bringing the number of parties to 178. Three States became parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, bringing the total number of parties to 162, and two States became parties to its Optional Protocol.

38. Regarding more recent treaties, eight States became parties to the Convention on the Rights of Persons with Disabilities and four States became parties to the International Convention for the Protection of All Persons from Enforced Disappearance. Seven additional States are now parties to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, while one additional State became a party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Two additional States became parties to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Three States ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, with one State withdrawing a reservation it had made upon accession.

39. Three additional States ratified the United Nations Convention against Corruption, bringing the total number of parties to 181. The peer review mechanism of the Convention, established in 2009 to assess countries' anti-corruption frameworks, has produced clear results, with nearly 160 reviews of countries' laws and institutions completed to date. In terms of domestic impact, 89 per cent of States have amended or adopted legislation in response to review recommendations and 77 per cent of States acknowledged that the Mechanism had helped to identify gaps and shortcomings in their anti-corruption institutional structures.

40. Over the reporting period, treaty bodies adopted a number of general comments on relevant topics, for example, the Committee on the Rights of the Child adopted general comment No. 19 (2016) on public budgeting for the realization of children's rights and the Committee on the Rights of Persons with Disabilities adopted general comments Nos. 3 (2016) on women and girls with disabilities and 4 (2016) on the right to inclusive education.

41. One State became a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, to give a total of 170 parties to date, and two States became parties to the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, to give a total of 144 parties. Six additional States became parties to the International Convention for the Suppression of Acts of Nuclear Terrorism, one State became a party to the International Convention for the Suppression of the Financing of Terrorism, and two States became parties to the International Convention for the Suppression of Terrorist Bombings. There was one accession to the International Convention against the Recruitment, Use, Financing

and Training of Mercenaries and two accessions to the International Convention against the Taking of Hostages.

42. The Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair and Assembly entered into force on 8 March 2017, with a total of seven States parties.

43. The International Law Commission recommended that a treaty be negotiated on the basis of the draft articles on the protection of persons in the event of disasters, which it had adopted in 2016. It continued to consider several other topics, including "Immunity of State officials from foreign criminal jurisdiction" and "Crimes against humanity".

44. At its fiftieth session, in 2017, the United Nations Commission on International Trade Law (UNCITRAL) adopted the Model Law on Electronic Transferable Records and the Guide to Enactment of the UNCITRAL Model Law on Secured Transactions. Action has been taken with respect to a number of treaties in the field of international trade law, including one accession to the United Nations Convention on Contracts for the International Sale of Goods, one accession to the United Nations Convention on the Use of Electronic Communications in International Contracts and two ratifications of the United Nations Convention on Transparency in Treaty-based Investor-State Arbitration, which will enter into force on 18 October 2017, six months after the date of deposit of the third instrument of ratification. Furthermore, there have been four enactments of the UNCITRAL Model Law on International Commercial Arbitration, three enactments of the UNCITRAL Model Law on Electronic Commerce and two enactments of the UNCITRAL Model Law on Cross-Border Insolvency.

B. International and hybrid courts and tribunals

45. International and hybrid courts and tribunals are a central element of international relations based on the rule of law. They are essential for the peaceful settlement of international disputes and ensuring accountability for international crimes where these cannot be resolved or adjudicated at the national level.

International Court of Justice

46. In 2016, the International Court of Justice celebrated its seventieth anniversary. The Court's decisions bring clarity and stability to bilateral relationships and ease tensions between States. Member States are urged to: consider broadening their recognition of the compulsory jurisdiction of the Court as the principal judicial organ of the United Nations; make declarations accepting the compulsory jurisdiction of the Court and consider withdrawing any reservations that they have made to such declarations, where applicable; and include compromissory clauses in any treaties and withdraw any reservations that they have made to such compromissory clauses.

47. The Court maintains a high level of judicial activity. There are currently 17 cases pending before the Court, including contentious cases and a new request for an advisory opinion on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965.

International Tribunal for the Law of the Sea and arbitral tribunals and conciliation commissions established pursuant to the United Nations Convention on the Law of the Sea

48. In 2016, on the occasion of its twentieth anniversary, the International Tribunal for the Law of the Sea considered two cases, namely, the *Dispute Concerning Delimitation of the Maritime Boundary between Ghana and Côte d'Ivoire in the Atlantic Ocean (Ghana/Côte d'Ivoire)* and *The M/V "Norstar" Case (Panama v. Italy)*. In November 2016, the Tribunal delivered a judgment finding that it had jurisdiction to adjudicate the dispute in *The M/V "Norstar" Case*.

49. During the reporting period, several arbitral proceedings concerning various maritime issues were conducted. In the compulsory conciliation proceedings initiated by Timor-Leste against Australia, the Conciliation Commission delivered its decision, finding no issues that precluded it from continuing the proceedings. In early 2017, the Conciliation Commission, Timor-Leste and Australia announced that a package of confidence-building measures had been agreed and that meetings would continue to resolve differences over maritime boundaries in the Timor Sea.

International Criminal Court and other international courts and tribunals

50. In 2016, the Governments of Burundi, the Gambia and South Africa transmitted notifications of withdrawal from the Rome Statute of the International Criminal Court. The Governments of the Gambia and South Africa subsequently rescinded their notifications of withdrawal in February and March 2017, respectively. The withdrawal of Burundi is due to come into effect on 27 October 2017, reducing the total number of States parties to the Rome Statute to 123. Argentina, Chile, the Netherlands and Portugal recently notified the Secretary-General of their consent to be bound by the amendments to the Rome Statute on the crime of aggression, bringing the total number of States that have done so to 34. According to the provisions of the Rome Statute, the International Criminal Court may start exercising jurisdiction over the crime of aggression once 30 States parties have ratified the amendments and a two-thirds majority decision to that effect is taken by the States parties after 1 January 2017.

51. In September 2016, the Prosecutor of the International Criminal Court launched a preliminary examination into the situation in Gabon, focusing on crimes allegedly committed since May 2016, including in the context of the presidential elections held in the country in August 2016. The International Criminal Court also completed the trial of Ahmad Al Faqi Al Mahdi, who was convicted of directing attacks against historical monuments and religious buildings in northern Mali in 2012. This was the first case of the Court focusing exclusively on attacks on cultural property. The Court commenced the trial of the alleged Commander of the Lord's Resistance Army Dominic Ongwen and unsealed the arrest warrant of Al-Tuhamy Mohamed Khaled, who is wanted for international crimes allegedly committed in Libya in 2011.

52. The International Criminal Court has, for the first time, awarded individual and collective reparations to victims of crimes committed in the Democratic Republic of the Congo by former militia leader, Germain Katanga. Subsequent to the conviction of former Vice-President Jean-Pierre Bemba Gombo for war crimes and crimes against humanity, including the widespread use of sexual violence, committed by troops under his command, the United Nations submitted a joint amicus curiae brief for the Court's consideration in the reparations phase of the Bemba proceedings.

53. The Organization remains committed to cooperating with the International Criminal Court and providing administrative, legal and logistical support pursuant to the provisions of the Relationship Agreement between the United Nations and the International Criminal Court.

54. In June 2016, the International Tribunal for the Former Yugoslavia delivered its appeal judgment in the case of *Stanišić and Župljanin*. The Tribunal is currently deliberating its judgments on the *Mladić* trial and the *Prlić et al.* appeal. The *Hadžić* trial was terminated following the death of the accused. The Tribunal is expected to complete its work by the end of 2017. There are no pending cases involving genocide, war crimes or crimes against humanity, however, three persons charged with contempt of the Tribunal for allegedly interfering with witnesses remain at large.

55. The branch of the International Residual Mechanism for Criminal Tribunals located in The Hague is adjudicating the *Stanišić and Simatović* case, following a retrial order, and two appeal proceedings in the *Šešelj* and *Karadžić* cases. At its Arusha branch, the Residual Mechanism is currently seized of an appeal filed by Jean Uwinkindi against the decision not to revoke the referral of his case to Rwanda and a motion for review of judgment in the *Ngirabatware* case. The Residual Mechanism is monitoring the five ongoing cases referred by the International Criminal Tribunal for Rwanda to the national courts of France and Rwanda. The Office of the Prosecutor continues its efforts to locate and arrest the remaining fugitives.

56. In November 2016, the Extraordinary Chambers in the Courts of Cambodia delivered judgment in the appeals case involving Khieu Samphan and Nuon Chea, thus concluding the case. The trial proceedings in another case concerning the same accused are continuing and investigations in other cases remain ongoing. The co-investigating judges issued a joint closing order dismissing case 004/01 in February 2017 and issued their full reasoning in July 2017.

57. The Special Tribunal for Lebanon continues with the trial in absentia of four persons accused of perpetrating the attack that killed Rafik Hariri and 21 other persons in 2005. In its second contempt case, the Tribunal sentenced the newspaper company Akhbar Beirut and related individuals, including its director, to fines, which were not appealed. The Residual Special Court for Sierra Leone addressed matters related to the detention of persons convicted by the Special Court for Sierra Leone, judicial cooperation and conditions of early release. The United Nations continues to provide technical assistance to the African Union Commission for the establishment of the Hybrid Court for South Sudan to address serious crimes committed in South Sudan since December 2013.

58. Lessons can be drawn from the experiences of these mechanisms to improve existing international mechanisms in terms of efficiency, funding sustainability and providing for residual functions. First, the model adopted by the Residual Mechanism could contribute to efficiency and reduce operational costs since judges are paid on an "as and when employed" basis. Second, the length of proceedings may have a negative impact on voluntary funding by Member States over time and should be reduced without compromising the proper administration of justice. These institutions should develop oversight and governance mechanisms to expedite the resolution of cases without jeopardizing judicial independence and the right to a fair trial. Achieving justice for victims and accountability for serious crimes is a long-term process. Although the General Assembly has recently covered some of the shortfalls in voluntary funding for tribunals through subventions, voluntary funding is not appropriate for international justice mechanisms. With respect to residual functions, plans must be put in place to preserve and continue the achievements of

these tribunals. Both the Special Court for Sierra Leone and the International Criminal Tribunal for Rwanda have now closed, having completed their mandates. The Residual Special Court for Sierra Leone and the Residual Mechanism were established mainly to: provide support and protection for victims and witnesses; manage archives; supervise the enforcement of sentences; review judgments; prosecute remaining fugitives; and support national authorities in their investigations and prosecutions. The experiences of these residual courts will be invaluable in guiding the establishment, operation and closure of existing and future tribunals.

C. Other international accountability mechanisms

59. The comprehensive documentation of alleged violations and the preservation of evidence are essential to the pursuit of accountability. In the Central African Republic, the United Nations initiated a mapping project of serious international crimes to support the Special Criminal Court. The Human Rights Council mandated a number of independent commissions of inquiry to fight against impunity, for example, in Burundi, the Democratic Republic of the Congo, Myanmar and South Sudan.

60. On 21 December 2016, the General Assembly established the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011. The Mechanism is mandated to collect, consolidate, preserve and analyse evidence of international crimes and human rights violations committed in the Syrian Arab Republic and to prepare files in order to facilitate independent criminal proceedings, in accordance with the standards of international law, in national, regional or international courts or tribunals that currently have or may in the future have jurisdiction over these crimes. As requested by the General Assembly, arrangements necessary to establish the Mechanism were made, including appointing a head and establishing a start-up team composed of experienced United Nations personnel with the relevant skills and expertise to swiftly carry out the administrative steps needed for its establishment.

D. Legal and judicial responses to issues of serious global concern

61. Challenges to peace and security call for a strengthening of the international legal order. National and international justice systems are continuing to grapple with a number of major global concerns, as outlined below.

Climate change

62. While the entry into force of the Paris Agreement in November 2016 represented a milestone in the global commitment to tackling climate change and established binding procedural obligations on States parties, the corresponding international legal framework is still at a relatively incipient stage. Member States such as Chile and Costa Rica have responded quickly by taking significant steps towards the development of legislation relating to climate change. Peru has begun a legal analysis with a view to developing a measurement, reporting and verification system to account for mitigation actions in the private sector.

Displacement and migration

63. The scale and complexity of contemporary trends in displacement and migration have presented unprecedented challenges. In September 2016, the General Assembly adopted a set of commitments known as the New York Declaration for Refugees and Migrants, which reaffirms the importance of the international legal framework and reiterates the commitment by Member States to protect people on the move, including the obligation to rescue people in distress at sea.

64. Despite the existence of a strong international legal framework and standards on the rights of migrants, operationalizing those standards remains a challenge. Through the Global Migration Group, the United Nations has been developing the principles and guidelines on the human rights protection of migrants in vulnerable situations. Member States that have recently received large numbers of refugees and migrants, including Germany and Italy, have initiated legislation to protect unaccompanied children and those at high risk of abuse, such as women and girls. The current patterns of increased displacement and migration require robust judicial and legal national and international responses.

Trafficking and illicit flows of people

65. With the unanimous adoption of Security Council resolution 2331 (2016), the first on trafficking in persons in conflict situations, the international community approached this issue from the perspective of its impact on international peace and security, as, for example, trafficking in persons in conflict areas has been used to finance the activities of terrorist groups.

66. In their response to trafficking in persons, including for the purposes of sexual and other forms of exploitation by Islamic State in Iraq and the Levant, Boko Haram, Al-Shabaab and the Lord's Resistance Army, Member States have advanced the application of international norms and standards, including strengthening capacities, research and responses in connection with trafficking in persons and the smuggling of migrants during the reporting period. Going forward, judicial responses in preventing and countering these crimes and providing reparation measures for the victims will be equally essential.

Preventing terrorism and violent extremism

67. Security Council resolution 2322 (2016) on judicial and law enforcement cooperation underlines the importance of sharing information across borders so as to strengthen the capacity of national justice systems to effectively investigate and prosecute acts of terrorism with full respect for the rule of law and human rights. In Mali, the Government established a specialized unit to investigate and prosecute terrorism-related crimes and the United Nations Counter-Terrorism Implementation Task Force has developed a plan to address the justice and human rights components of terrorist threats, including the prosecution, rehabilitation and reintegration of foreign terrorist fighters. The plan has leveraged the expertise and the different responsibilities of United Nations entities.

68. The newly established United Nations Office of Counter-Terrorism aims to enhance the internal coordination, coherence and impact of existing entities' efforts to improve support to Member States in their implementation of the United Nations Global Counter-Terrorism Strategy (General Assembly resolution 70/291). The Office will ensure that the Strategy is implemented in a balanced manner across its four pillars, which includes a pillar on prevention to address conditions conducive to acts of terrorism and violent extremism and a cross-cutting pillar on the protection of human rights and the rule of law. In support of this effort, Member

States are urged to intensify efforts to conclude the draft comprehensive convention on international terrorism.

Transnational organized crime

69. Increasingly sophisticated networks of transnational organized crime are a threat to peace and security, undermine development and reverse gains made in relation to the rule of law. The United Nations is supporting States in the implementation of the United Nations Convention against Transnational Organized Crime and its Protocols, as well as the three international drug control conventions. United Nations entities provided legal advice to approximately 90 countries to promote the ratification and implementation of the Convention and training courses for law enforcement and judicial officials. However, increased international and regional cooperation is necessary in judicial responses aiming at preventing and countering transnational organized crime.

70. In November 2016, with the support of the Office of the Special Envoy of the Secretary-General for the Great Lakes Region, the International Conference on the Great Lakes Region launched the Great Lakes Judicial Cooperation Network for prosecutors in the region to strengthen cooperation on extradition and mutual legal assistance, including in relation to terrorism and the illegal exploitation of natural resources.

E. Strengthening the administration of justice within the Organization

71. The internal system of administration of justice is an essential component for the observance of the rule of law within the Organization and for its staff members. As at 30 June 2017, the United Nations Dispute Tribunal had issued 1,469 judgments and the United Nations Appeals Tribunal had issued 746.

IV. Making United Nations rule of law assistance more effective and coherent

72. The United Nations has taken an increasingly adaptable approach to rule of law assistance that recognizes the wide range of systems and solutions that can be used to advance the rule of law and the challenges, opportunities and priorities in different contexts. In Somalia, for example, the United Nations has provided support for broad institutional and legal system reform, whereas in other countries, such as Guinea-Bissau and South Sudan, access to justice at the community level has been prioritized.

73. The United Nations is determined to strive to produce ever better outcomes. While important results have been achieved in Colombia, Timor-Leste and Tunisia, efforts must be reviewed in places where the United Nations has been present for a considerable period of time and expended resources without commensurate changes. The United Nations must reflect and adapt quickly to developments on the ground, learning from innovative initiatives such as the establishment of the Special Criminal Court in the Central African Republic or the special prosecution cells in the Democratic Republic of the Congo, which involved the national authorities in a meaningful way at all planning stages.

74. The United Nations must sharpen its strategic approach at mission start-up and in transition planning in peace operations in order to improve delivery on rule of law support. Improvements have been made in recent years, such as in managing the transition in Timor-Leste, but experience has shown that effective transitions require

the early establishment of a collaborative work culture in order to enable the gradual and efficient transfer of tasks and responsibilities upon mission drawdown. There is no standard model for United Nations system-wide joint initiatives and interoperability challenges persist. Nonetheless, the Organization should build on progress made through ongoing joint analyses and assessments, the mobilization of joint resources, pooling of expert capacities and financial management. The allocation of programmatic funding in mission budgets for rule of law assistance on a case-by-case basis is an encouraging development that will allow the United Nations to be more efficient in this area. Programmatic funding should continue to feature in peace operations budgets.

75. Support for country-level assistance has been scaled up through the Global Focal Point for Police, Justice and Corrections Areas in the Rule of Law in Post-Conflict and Other Crisis Situations, led by the Department of Peacekeeping Operations and the United Nations Development Programme, together with the Office of the United Nations High Commissioner for Human Rights, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Office on Drugs and Crime and the Office of the United Nations High Commissioner for Refugees. The Global Focal Point is an innovative internal working arrangement that supports the horizontal integration of United Nations system efforts on delivery of rule of law assistance. The Global Focal Point continues to support the United Nations system in peace operations, transitions and peacebuilding settings, without deviating from entities' established mandates and reporting lines.

76. During the reporting period, the Global Focal Point reinforced the capacity of the support provided by the United Nations to States in tackling organized crime (Mali), resuming criminal justice and security functions (Central African Republic), strengthening police accountability (Haiti), countering sexual and gender-based violence (State of Palestine), improving community security, securing elections and planning police deployment strategies. The Global Focal Point identified relevant expertise to meet requests, deploying experts on justice, law enforcement, gender, corrections, planning and programming to countries including Burkina Faso, Sierra Leone, Sri Lanka and the State of Palestine. The Global Focal Point continues to reinforce a culture of joint planning and programming, resource mobilization, knowledge-sharing and best practices across the three pillars of the Organization. The support provided through the Global Focal Point in Haiti, Liberia and the Sudan (Darfur) demonstrated that this approach was a valuable tool for smarter mission transition, resulting in the creation of joint programmes and integrated teams comprising members from the mission and from the United Nations country team, thus allowing for strengthened support while the mission scales down. The Organization will continue to strengthen its cross-pillar collaborative approach and practice.

77. Considerable progress has been made in advancing broader partnerships for rule of law assistance and, in some instances, civil society organizations have received support to provide much-needed services. Member States are encouraged to continue to work with civil society organizations as essential partners in promoting the rule of law.

78. In order to advance the work of the United Nations on the rule of law in a timely and collaborative manner, the Rule of Law Coordination and Resource Group will continue to bring together policymakers on the rule of law from a wide range of areas of work across the United Nations system. The Rule of Law Unit in the Executive Office of the Secretary-General will continue to provide coordination, guidance and secretariat services in support of the Rule of Law Coordination and Resource Group.

V. Moving forward: effectiveness, coherence and sustainability

79. A number of reform streams have recently been initiated in the areas of development, peace and security, management and counter-terrorism to improve the way the United Nations works and to eliminate fragmented responses. Within these reforms, it is timely to reflect on the effectiveness of the rule of law assistance provided, and in particular, the ways in which its effectiveness, sustainability and coherence can be strengthened across the three pillars of the Organization. The United Nations welcomes a frank and open dialogue with Member States and their active and constructive contributions to collectively improve rule of law assistance.

80. The 2030 Agenda, which encompasses important aspects of the rule of law, cutting across all 17 Sustainable Development Goals, is the Organization's most ambitious global project. The Organization can and must do more to support the implementation of the rule of law elements of this universal agenda. The rule of law has a clear impact, for example, on eliminating poverty, reducing inequalities, supporting gender equality, protecting the environment and creating just, inclusive and strong institutions. The United Nations must mobilize all means at its disposal and foster external partnerships to strengthen its support to Member States in the implementation of the 2030 Agenda, including the aspects relating to the rule of law. Member States are invited to provide guidance on how to strengthen partnerships and cooperation among Member States, to improve the availability of technical expertise and any other initiatives to enhance the support provided by the United Nations in this area.

81. When United Nations peace operations have been given concrete mandates pertaining to the rule of law, the Organization has helped to strengthen national capacities. In order to improve capacity to deliver on such mandates, the following areas should be considered for further reflection:

(a) What steps can be taken to ensure that the components of peace operations relating to the rule of law are organized to support the implementation of the political objectives of the mission, better define focus areas and establish clear benchmarks, with a view to facilitating the regular measurement of progress?

(b) What improvements can be made in planning for periods of transition, for example, the transfer of responsibilities from United Nations peace operations to host Governments and/or to United Nations country teams at an appropriate time before mission drawdown, including through regular coordination and the identification of shared objectives?

(c) What steps can be taken to ensure that rule of law assistance is sufficiently resourced at United Nations peace operations in order to deliver results, including through results-based planning, the flexible use of mission budgets and closer linkages with programmatic entities of the United Nations country team?

(d) How can police and civilian components be better integrated, in particular with respect to capacity-building, as mentioned by the previous Secretary-General in his report on United Nations policing (S/2016/952); and how can United Nations police be better supported to fulfil requests for assistance from Member States outside mission situations?

82. While recognizing that accountability for international crimes is the responsibility of Member States, international mechanisms remain relevant and important when domestic courts are unable or unwilling to investigate and prosecute. These mechanisms are playing an important role in upholding human rights and the rule of law. In order to improve the efficiency and sustainability of international accountability mechanisms, Member States are invited to engage in a

dialogue with a view to identifying ways of improving the cost-efficiency, financial sustainability, operations, residual functions, accountability and public perceptions of such mechanisms. Cooperation with the International Criminal Court is of vital importance and all States that have not done so are encouraged to consider becoming parties to the Rome Statute.

83. Considerable progress has been made in recent years to enhance the impact of United Nations rule of law assistance to Member States at the national level, including through the Global Focal Point, an arrangement that will continue to be supported and strengthened. However, regular coordination of United Nations entities on the ground and greater accountability for the impact of United Nations rule of law assistance are still needed. More thorough evaluations of the impact of that assistance must be conducted, including by providing guidance to special representatives of the Secretary-General and United Nations resident coordinators, building stronger capacities and business processes for the provision of Headquarters support to entities at the country level and developing harmonized tools for better monitoring and evaluating the performance of United Nations entities. In view of the reform processes that have been initiated, other options should be taken into consideration, including proposals on sustainable funding and improving the coordination and impact of United Nations assistance.

84. In recent years, the rapidly evolving nature of terrorism, corruption, cybercrime and other forms of organized crime have presented challenges to the investigation and prosecution capacities of national justice institutions. With the establishment of the new Office of Counter-Terrorism, the Organization is committed to tackling threats of terrorism, particularly across borders. While the United Nations has already made significant progress in this field, the Organization needs to increase its assistance in order to meet the expectations of Member States. Member States are invited to consider ways of strengthening the support provided by the United Nations in these areas.

85. Finally, it is worth reiterating the important role that partnerships can play in advancing cooperation and improving results. There is a need for Member States to build consensus and work in solidarity to address the most pressing priorities outlined in the present report, within and across State boundaries. Member States are encouraged to identify how to make progress in building partnerships for rule of law assistance, in particular on South-South cooperation, engagement with international financial institutions and the role of regional organizations, including the African Union, the European Union, the Organization for Security and Cooperation in Europe, the Commonwealth Secretariat and the Association of Southeast Asian Nations.

Annex

Ways and means to further disseminate international law to strengthen the rule of law

1. The United Nations, through the Office of Legal Affairs and its specialized divisions, is responsible for the dissemination of international law to strengthen the rule of law.

2. In particular, it is responsible for the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, established by the General Assembly in 1965, to contribute towards a better knowledge of international law so as to strengthen international peace and security and promote cooperation among States.[1]

3. The United Nations maintains an electronic treaty database, providing online access to information on all treaties registered with the Secretariat. It disseminates information on treaty law and practice through legal publications and the organization of capacity-building seminars both at Headquarters and at the regional level in collaboration with national governments.

4. The dissemination of international commercial law is achieved through coordinating the work of organizations to promote: (a) cooperation and coherence in the modernization and harmonization of international commercial law; (b) wider participation in existing international conventions through technical assistance activities; (c) a uniform interpretation and application of international conventions and uniform laws primarily through judicial training; and (d) collecting and disseminating information on national legislation and modern legal developments through the website of the United Nations Commission on International Trade Law (UNCITRAL). The Commission liaises with United Nations organs and specialized agencies and other governmental and non-governmental organizations concerned with international trade, and invites them to its sessions. In 2016, UNCITRAL endorsed a guidance note on strengthening United Nations support to States, upon their request, to implement sound commercial law reforms, which will be circulated widely.

5. Information on international law of the sea, in particular on intergovernmental processes on issues relating to the law of the sea, is disseminated through United Nations electronic resources. The United Nations publishes bulletins on relevant legal material, such as national legislation, bilateral agreements and multilateral treaties and the decisions of international dispute and arbitration bodies. The United Nations-Nippon Foundation of Japan Fellowship Programme and the Hamilton Shirley Amerasinghe Fellowship on the Law of the Sea have awarded 11 fellowships to individuals from developing countries working on ocean affairs and the law of the sea. The United Nations organized its second training course on promoting marine scientific research with the participation of government officials and scientists from the Caribbean region. In addition to legal and scientific modules delivered in collaboration with the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, representatives from regional organizations, including the Organisation of Eastern Caribbean States, presented existing regional instruments on the promotion and conduct of marine scientific research in the Caribbean region. Additional dissemination activities, including side events and briefings, were held during the reporting period.

[1] See http://legal.un.org/poa/.